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**May 11, 2017**

**Jeff S. Jordan**  
**Assistant General Counsel**  
**Complaints Examination & Legal Administration**  
**Federal Election Commission**  
 999 E Street, NW  
 Washington, DC 20463

RE: MUR 7241

Dear Mr. Jordan:

We are writing on behalf of NBCUniversal Media, LLC ("NBCUniversal"), operator of NBC News, which is the named respondent in a complaint filed by Kerry D. Bowers, dated April 12, 2017 (the "Complaint"), alleging that NBC News violated Federal Election Commission (the "Commission" or "FEC") regulations. Please note that in your letter dated April 27, 2017, you state that Comcast Corporation is "doing business as" NBC News. For the purpose of clarity, Comcast Corporation is the parent company of NBCUniversal, and NBC News is a division of NBCUniversal. Accordingly, the correct respondent in this MUR is NBCUniversal rather than Comcast Corporation.

### The Complaint Misapplies the Rule

The Complaint alleges that NBC News violated 11 CFR § 100.73(b) by posting a news story on its website on March 23, 2015<sup>1</sup> that allegedly reported incorrect information regarding the number of presidential candidates who had announced their candidacy as of that date (the "Article"). The Complaint goes on to allege that by violating the above provision, NBC News made an impermissible corporate contribution under the Federal Election Campaign Act of 1971, as amended ("FECA"). The provision in question, 11 CFR § 100.73(b), requires a press organization to provide reasonably equal coverage of federal candidates as part of a general

<sup>1</sup> The Complaint initially states that the violation occurred on March 25, 2015, but proceeds to describe the article that is the subject of the Complaint as one posted online on March 23, 2015. We have assumed for purposes of this response that the initial reference to March 25 is a typo.

pattern of campaign-related accounts in order for such activity to qualify for the "press exemption" from the definition of a contribution or expenditure, which is discussed in more detail below. However, that provision, which is relied upon by the Complainant, applies only to press entities that are owned or controlled by a political party, political committee, or candidate. It does not apply to NBC News, as it is not so owned or controlled. It appears that the Complainant either misreads the application of the "press exemption," part of which is expressed in 11 CFR § 100.73, or intentionally cites only a portion of it out of context in order to advance his claim. In either case, the result is the same.

**The Article is Covered by the Press Exemption**

FECA and Commission regulations define the terms “contribution” and “expenditure” to include “anything of value” made in connection with a federal election. *See* 52 U.S.C. § 30118(b). However, there is an exemption, commonly referred to as the “press exemption,” that excludes from the definitions of contribution and expenditure any costs associated with producing and distributing, among other things, news stories such as the Article. 11 C.F.R. §§ 100.73, 100.132; *see also* 52 U.S.C. § 30101(9)(B)(i). In numerous advisory opinions, the Commission has applied the press exemption using a two-step analysis that considers (1) whether the person engaging in the activity is a press entity and (2) whether such person is owned or controlled by a political party, political committee, or candidate, and whether the activity is part of such person's legitimate press function. *See e.g.*, Advisory Opinion 2016-01 (Ethiq), Advisory Opinion 2005-16 (Fired Up), Advisory Opinion 2004-07 (MTV). The Commission has found that materials are produced within the legitimate press function of a press entity if they are made available to the general public and are consistent with other materials produced by the entity. Advisory Opinion 2016-01 (Ethiq), Advisory Opinion 2000-13 (iNEXTV). If the activity in question is a legitimate press function conducted by a press entity that is not controlled by a political party, political committee, or candidate, the press exemption applies and the costs of that activity are neither a contribution nor an expenditure under FECA.

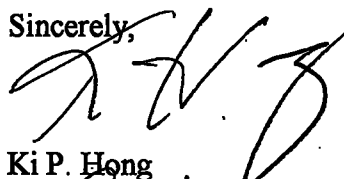
It is clear that any costs associated with the Article incurred by NBC News and its affiliates fit squarely within the press exemption. As an internationally recognized, bona fide press entity that even the Complaint describes as a "reputable news source," there is no question about NBC News' status as a press entity. Complaint at p. 2. Furthermore, as stated above, NBC News is not owned or controlled by a political party, political committee, or candidate, and there is no allegation in the Complaint to the contrary. Finally, the Article was posted on the NBC News website and discussed the status of the GOP presidential primary race, which is entirely consistent with the Commission's interpretation of a legitimate press function. Accordingly, the Article did not result in any prohibited contribution or expenditure in violation of FECA and Commission regulations.

Moreover, while not relevant to the analysis of the Complaint's allegation, the Article was accurate in that Senator Cruz was the first major 2016 presidential candidate to

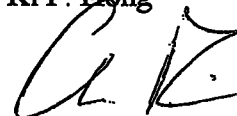
declare his or her candidacy and it is entirely reasonable for NBC News, a national news organization, to cover his announcement in that context.

Given the facts and analysis above, we respectfully request that the Commission dismiss the Complaint with no further action. Please do not hesitate to contact us with any questions or requests for additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. P. Hong', written over the printed name.

Ki P. Hong

A handwritten signature in black ink, appearing to read 'C. M. Ricciardelli', written over the printed name.

Charles M. Ricciardelli

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